

MEETING RECORD

NAME OF GROUP: City Board of Zoning Appeals

DATE, TIME AND

PLACE OF MEETING:

Friday, April 28, 2006, 1:30 p.m., Hearing Chambers, County-City Building, 555 South 10th Street, Lincoln, Nebraska

MEMBERS AND OTHERS

IN ATTENDANCE:

Members: Gene Carroll, Tim Francis, George Hancock, Gerry Krieser and Bob Kuzelka.

Others: Terry Kathe (Building & Safety); Brian Will and Michele Abendroth (Planning Dept.); Tonya Skinner (Law Department); applicants and other interested parties.

STATED PURPOSE

OF THE MEETING:

Regular Meeting of the City Board of Zoning Appeals

Chair Gene Carroll called the meeting to order at 1:33 p.m.

Approval of the minutes of the March 31, 2006 meeting

Hancock moved approval of the March 31, 2006 meeting minutes, seconded by Krieser. Motion carried 5-0. Carroll, Francis, Hancock, Krieser and Kuzelka voting 'yes'.

Appeal No. 06003 by Don Wesely for a variance of the size of an electronic changeable copy sign and appeal of an error on property generally located at 2500 Wildcat Drive.

HEARING

April 28, 2006

Don Wesely, appearing on behalf of Anderson Ford, stated that the sign in question at Anderson Ford has been up for almost 5 years. It is located over 300 feet from the interstate and even farther from North 27th Street. He presented photos of the sign taken from several directions. The issue before the Board is the changeable portion of the sign. Wesely stated that the sign is not an intrusion to those driving on the interstate. It is so far away and so high that it is not a problem for drivers or other businesses. Their point is that a permit was issued and the sign was erected. Time passed and a notice was given that the permit was issued in error. He believes the circumstances of this case are peculiar, unusual and exceptional. One of the possibilities is that a variance could be issued based on the error. However, 60 days have elapsed which is the allowable time in which to file this type of appeal. Anderson Ford was not aware of this option. He does not believe this will set a precedence because the circumstances are so unusual. He urged the Board to grant this variance and allow the sign to remain in place.

Mike Anderson, owner of the property, stated that when he received the letter from the City asking to respond in 30 days, they went to Building and Safety immediately. They met with them on March 12 to discuss their options, at which time Building and Safety stated that their only options were to change the sign law or create a special sign district. They met with the City to discuss an amendment, which was denied in June. He then met with the businesses about creating a special sign district, and none of them had a problem. But that was denied as well. He feels they have done everything they can to resolve this issue. They were not told of the option to come to the Board of Zoning Appeals until later.

Carroll asked if there was further testimony in favor of or against this application. With no one appearing, Carroll closed the public hearing and proceeded with the Executive Session.

ACTION

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Skinner stated that she believes the Board does not have jurisdiction over the error portion because of the 60 day appeal period which has elapsed.

Carroll moved to deny the appeal on the error based on lack of jurisdiction, seconded by Krieser. Motion carried 4-1. Carroll, Francis, Krieser and Kuzelka voting 'yes'; Hancock voting 'no'.

Francis moved to deny the variance on the sign, seconded by Carroll. Carroll stated that he believes the Board does not have the authority to grant this variance. Motion carried 5-0. Carroll, Francis, Hancock, Krieser and Kuzelka voting 'yes'.

Appeal No. 06005 by Kirk Nelson for a variance of the rear and side yard setbacks on property generally located at 4010 Jersey Circle.

HEARING

April 28, 2006

Kirk Nelson, 4010 Jersey Circle, stated there are two issues before the Board; one is for a variance on the side yard, which he believes was a construction error, and the other is a variance in order to complete the enclosure of the deck. They built the deck when they moved into the house in 1969. They did not get a building permit because he did not realize he needed one to build a deck. They discovered that they did in fact need a permit when they decided to enclose the deck. He noted that the deck is currently totally screened. The two adjoining neighbors have no problem with this enclosure. They also have a drainage ditch in the backyard, which he believes is unique. He requested that the Board approve these variances so that they can enclose the deck.

Staff clarified that although the application was only completed for consideration on the rear yard setback, the Board can consider both variances because it was advertised for both the side yard and rear yard setbacks.

Kathe stated that the deck would have been allowed prior to 1979. The screened in part and the roof above it would not have been allowed. So the deck would be a legal nonstandard situation. Anything above the decking would not be considered a legal nonstandard issue and would have to be removed.

Skinner stated that if the variance were granted relating to the deck, they would be setting a new setback for the whole property.

Carroll asked if there was further testimony in favor of or against this application. With no one appearing, Carroll closed the public hearing and proceeded with the Executive Session.

ACTION

April 28, 2006

Kuzelka moved approval of the side yard variance, seconded by Carroll. Motion carried 5-0. Carroll, Francis, Hancock, Krieser and Kuzelka voting 'yes'.

Carroll moved to deny the rear yard variance, seconded by Krieser. Carroll stated that there is not an issue in the land, and they do not have the authority to grant this variance. Motion carried 5-0. Carroll, Francis, Hancock, Krieser and Kuzelka voting 'yes'.

The meeting was adjourned at 2:06 p.m.